

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

WM HIGH YIELD FUND, WM INCOME
FUND, AT HIGH YIELD FUND, WM VT
INCOME FUND, AT INCOME FUND,
EVERGREEN FUNDING LTD/EVERGREEN
FUNDING CORP., and STELLAR FUNDING,
LTD.,

Plaintiffs,

v.

MICHAEL A. O'HANLON, STEVEN R.
GARFINKEL, RICHARD MILLER, ANTHONY J.
TUREK, JOHN P. BOYLE, TERRY W. CADY,
MATTHEW COLASANTI, RAYMOND FEAR,
GERALD COHN, HARRY T.J. ROBERTS,
WILLIAM S. GOLDBERG, JOHN E. MCHUGH,
NATHAN SHAPIRO, DELOITTE & TOUCHE,
LLP., HAROLD NEAS, ONCURE
TECHNOLOGIES CORPORATION, JEFFREY
GOFFMAN, PRESGAR IMAGING, LLC, and
DOLPHIN MEDICAL, INC.,

Defendants.

: SUBPOENA DUCES TECUM IN A
: CIVIL CASE PENDING IN THE
: UNITED STATES DISTRICT COURT
: FOR THE EASTERN DISTRICT OF
: PENNSYLVANIA

Case No. 04-CV-3423-LDD

^{mbd}
05-40009 FDS

**DELOITTE & TOUCHE LLP'S MOTION TO QUASH SUBPOENA DUCES TECUM
ISSUED TO DENNIS J. BUCKLEY, TRUSTEE OF THE DVI LIQUIDATING TRUST,
OR IN THE ALTERNATIVE, MOTION FOR PROTECTIVE ORDER**

Deloitte & Touche LLP ("D&T") hereby moves to quash the Subpoena *Duces Tecum* issued to Dennis J. Buckley, Trustee of the DVI Liquidating Trust ("Liquidating Trustee") by WM High Yield Fund, WM Income Fund, AT High Yield Fund, WM VT Income Fund, AT Income Fund, Evergreen Funding LTD/Evergreen Funding Corp., and Stellar Funding, LTD., (hereinafter, collectively referred to as "Plaintiffs"), or in the alternative, moves for a protective order requiring Plaintiffs to keep D&T documents, information, or testimony in the Liquidating Trustee's possession confidential and restricting use of D&T's confidential documents, information, or testimony to the above-captioned matter pending in the United States District

FILING FEE PAID:

RECEIPT # 404577
AMOUNT \$ 39.00
BY DFTY CLK SSM
DATE 5-31-05

Court for the Eastern District of Pennsylvania. In support of this motion, D&T incorporates by reference the attached memorandum of law.

ORAL ARGUMENT REQUESTED

D&T respectfully requests oral argument.

Dated: May 31, 2005

Respectfully Submitted,

 J.S.

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Counsel For Defendants
Deloitte & Touche LLP and Harold Neas

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Plaintiffs,

v.

MICHAEL A. O'HANLON, STEVEN R. GARFINKEL, RICHARD MILLER, ANTHONY J. TUREK, JOHN P. BOYLE, TERRY W. CADY, MATTHEW COLASANTI, RAYMOND FEAR, GERALD COHN, HARRY T.J. ROBERTS, WILLIAM S. GOLDBERG, JOHN E. MCHUGH, NATHAN SHAPIRO, DELOITTE & TOUCHE, LLP., HAROLD NEAS, ONCURE TECHNOLOGIES CORPORATION, JEFFREY GOFFMAN, PRESGAR IMAGING, LLC, and DOLPHIN MEDICAL, INC.,

Defendants.

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:
: Case No. 04-CV-3423-LDD
:
:

ORDER

AND NOW, this ____ day of ____ 2005, upon consideration of Deloitte & Touche LLP's Motion to Quash Subpoena *Duces Tecum* Issued to Dennis J. Buckley, Trustee of the DVI Liquidating Trust, Or In the Alternative, Motion For Protective Order, and memorandum of law in support thereof, and any response thereto, it is hereby ORDERED that said Motion is GRANTED, and, it is further

ORDERED that Plaintiffs are only entitled to use Deloitte & Touche LLP's documents, information, or testimony that Plaintiffs receive that have been stamped or otherwise designated as confidential ("Confidential Material") in connection with the above captioned matter pending in the United States District Court for the Eastern District of Pennsylvania ("Permitted Purpose"), and, it is further

ORDERED that Plaintiffs shall not disclose or discuss any Confidential Material with any person other than those parties identified in paragraphs (a), (b), (f) and (g) of page 3 of The Honorable Mary F. Walrath's October 5, 2004 Order ("Judge Walrath's Order"), or other counsel representing Plaintiffs in this matter ("Qualified Persons"), and, it is further

ORDERED that Qualified Persons shall maintain the confidentiality of all Confidential Material to the same extent as Plaintiffs and shall not use Confidential Materials for any purpose other than the Permitted Purpose, and, it is further

ORDERED that Judge Walrath's Order remains in force and Plaintiffs and any Qualified Persons receiving confidential material are bound by the provisions of Judge Walrath's Order.

BY THE COURT:

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

WM HIGH YIELD FUND, WM INCOME FUND, AT HIGH YIELD FUND, WM VT INCOME FUND, AT INCOME FUND, EVERGREEN FUNDING LTD/EVERGREEN FUNDING CORP., and STELLAR FUNDING, LTD.,

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AND NOW, this ____ day of ____ 2005, upon consideration of Deloitte & Touche LLP's Motion to Quash Subpoena *Duces Tecum* Issued to Dennis J. Buckley, Trustee of the DVI Liquidating Trust, Or In the Alternative, Motion For Protective Order, and memorandum of law in support thereof, and any response thereto, it is hereby ORDERED that said Motion is GRANTED and Deloitte & Touche LLP's confidential documents, information, or testimony in the possession of Dennis J. Buckley, Trustee of the DVI Liquidating Trust, shall not be produced.

BY THE COURT:

I.